

Remarks

35 U.S.C. §103

On page 2 of the Office Action, at paragraphs 1 and 2, claims 7 to 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Schoenberg (US 4,514,465) in view of Longmoore et al. (US 6,497,965) and Plume (US 6,846,863) . Applicants respectfully traverse this rejection to the extent it is applied to the claims as now presented.

Independent claim 7 and the claims dependent thereon (claims 8 to 13) as now amended, and new claim 21, recite directly, or by dependency, that

- each of the first substrate layer, second substrate layer, first outer layer, and second outer layer, comprises primary fatty amidic wax;
- at least one of i) the first and second substrate layers, and ii) the first and second outer layers comprises a transition metal salt of stearic acid, or ester of stearic acid; and
- the first outer layer comprises primary fatty amidic wax in an amount of 1% to 50% of the amount of primary fatty amidic wax in the first substrate layer; and the second outer layer comprises primary fatty amidic wax in an amount of 1% to 50% of the amount of primary fatty amidic wax in the second substrate layer.

The Applicants submit that no new matter has been added. Support for the amendment can be found e.g. at page 8, lines 30 to 32; page 9, lines 7 to 21; page 10, lines 20 to 26; and page 12, lines 6 to 8.

Independent claim 14 and the claims dependent thereon (claims 15 to 20), and new claim 23, recite directly, or by dependency, that

- each of the first outer layer, second outer layer, and substrate layer comprises primary fatty amidic wax;
- at least one of the first outer layer, the second outer layer, and the substrate layer, comprises a transition metal salt of stearic acid, or ester of stearic acid; and
- the first outer layer comprises primary fatty amidic wax in an amount less than the amount of primary fatty amidic wax in the substrate layer; and the

second outer layer comprises primary fatty amidic wax in an amount less than the amount of primary fatty amidic wax in the substrate layer.

The Applicants submit that no new matter has been added. Support for the amendment can be found e.g. at page 8, lines 30 to 32; page 9, lines 22 to 26; and page 13, lines 1 to 13, and 26 to 28.

On page 2 of the Office Action, at paragraph 5, it is indicated that “[Schoenberg] is silent regarding the use of slip agents in the intermediate layers in a higher amount than the surface layers.” Applicants respectfully submit that this statement, while true, unduly extends the teachings of Schoenberg. At column 17, lines 29 to 41 of the reference, it is stated in part that

[a]dditionally, these percentages may vary slightly as a result of the inclusion or application of additives to the **surface** layers such as the silicone mist discussed above or inclusion therein of agents such as slip, antioxidant and anti-block agents . . . A preferred slip agent is Erucamide (available from Humko Chemical under the tradename Kemamide E).

[emphasis mine]

Schoenberg also teaches, further down the same column, that

The general ranges for inclusion of these agents into the **surface** layers 4 and 5 . . . are as follows . . .

(2) Slip Agent:

1000-2000 ppm, preferably

1250-1750 more preferably

about 1500 ppm most preferably

[emphasis mine]

Applicants submit that these teachings are directed to the surface layers of Schoenberg's film.

To be sure, Schoenberg goes on to teach that additional layers and/or minor amounts of various additives of the types described above may be added to the film structure of the present invention as desired, but then qualifies this statement by saying “but care must be taken not to adversely affect the desired physical properties and other characteristics of the inventive film.” It is therefore not clear which additives and which layers would be added. In any event, “Additional” in column 18, line 14 can not refer to the intermediate layers 2 and 3, since these have already been disclosed and discussed in detail at e.g. column 14, lines 47 to 59 of the reference.

Applicants respectfully submit that a fair reading of Schoenberg does not support a conclusion that slip agents are present in the intermediate layers at all, much less in a higher amount than the surface layers of the multilayer film of Schoenberg.

Longmoore et al. teaches away from the use of erucamide because of its volatility and the problem of plating on processing equipment, causing a clean-up problem (column 1, lines 32 to 37) and teaches away from behenamide, in a surface layer intended for printing, because of its tendency to build up on the doctor blade of a rotogravure printing system (column 1, line 61 to column 2, line 9). Longmoore et al. propose the use of N,N'-bis-alkylene fatty acid amide in one of the surface layers of a film (column 2, lines 24 to 62). In contrast, the present claims have been amended to recite a primary fatty amidic wax. N,N'-bis-alkylene fatty acid amide is not a primary fatty amidic wax. Longmoore et al. does not appear to teach a primary fatty amidic wax in each of the first substrate layer, second substrate layer, first outer layer, and second outer layer (cf. claim 7) or in each of the first outer layer, second outer layer, and substrate layer (cf. claim 14).

Plume teaches a composition that can include fatty acid amides (column 2, line 12) and antacids (column 2, line 28) such as calcium or zinc stearate (column 3, line 5). However, the composition of Plume et al. is for a screw cap for a bottle. No film, or multilayer film, is taught. The calcium and zinc stearates are not taught as aids in controlling migration of a primary fatty acid amide, but simply as antacids.

Thus, there would have been no motivation to utilize a transition metal salt of stearic acid, or an ester of stearic acid, in at least one of a first and second substrate layer, or a first and second outer layer, of a multilayer film, the film characterized by having first and second outer layers, and first and second substrate layers, each comprising primary fatty amidic wax, and the film further characterized in that the first outer layer comprises primary fatty amidic wax in an amount of 1% to 50% of the amount of primary fatty amidic wax in the first substrate layer; and the second outer layer comprises primary fatty amidic wax in an amount of 1% to 50% of the amount of primary fatty amidic wax in the second substrate layer.

There would also have been no motivation to utilize a transition metal salt of stearic acid, or an ester of stearic acid, in at least one of a first outer layer, second outer layer, and substrate layer of a multilayer film, the film characterized by having first and second outer layers, and a substrate layer, each comprising primary fatty amidic wax, and the film further characterized in that the first outer layer comprises primary fatty amidic wax in an amount less than the amount of primary fatty amidic wax in the substrate layer, and the second


outer layer comprises primary fatty amidic wax in an amount less than the amount of primary fatty amidic wax in the substrate layer.

Applicants thus respectfully ask for allowance of the claims as now presented.

If any fees are deemed due, please charge same to Deposit Account No. 07-1765.

Respectfully submitted,

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